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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,256	02/20/2004	Victor Paul Eliu	HP/5-22839/A	7319
324	7590	03/17/2006	EXAMINER	
CIBA SPECIALTY CHEMICALS CORPORATION PATENT DEPARTMENT 540 WHITE PLAINS RD P O BOX 2005 TARRYTOWN, NY 10591-9005			POWERS, FIONA	
		ART UNIT	PAPER NUMBER	
		1626		
DATE MAILED: 03/17/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/783,256	ELIU ET AL.
	Examiner Fiona T. Powers	Art Unit 1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4 and 10 is/are rejected.
- 7) Claim(s) 5-9 and 11-15 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \*    c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/4/04.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

Receipt is acknowledged of the preliminary amendment filed February 20, 2004 and the information disclosure statement filed June 4, 2004, which have been entered in the file.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 to 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loew (US 4382801), cited.

Determination of the scope and content of the prior art (MPEP §2141.01)

The reference discloses a process for spin dyeing polymers or copolymers of acrylonitrile with quaternized heterocyclic diazo dyes. The reference discloses an imidazoleazo cationic dye which is structurally similar to the claimed dye of the formula (1) where R<sub>1</sub>, R<sub>2</sub> and R<sub>7</sub> are hydrogen and is similar to the dye of the formula (3) of claim 4. Note Example 13 in columns 7 and 8.

Ascertainment of the difference between the prior art and the claims (MPEP §2141.02)

The dye of Example 13 differs from the claimed dye in that a hydrogen atom replaces the methyl group ( $\text{CH}_2\text{R}_2$  where  $\text{R}_2$  is hydrogen). This dye is a homolog of the claimed dye.

*Finding of prima facie obviousness--rational and motivation (MPEP §2142-2413)*

It has been held that it is obvious to replace a methyl group for a hydrogen atom. See *In re Hoke*, 195 USPQ 148. It would have been obvious to make the claimed dye with the expectation that it would also be useful for the spin dyeing of polymers or copolymers of acrylonitrile with excellent fastness properties. The claimed cationic dyes would have been rendered obvious by the homolog of the reference in the absence of any unobvious property. The claimed method of dyeing organic material would have also been rendered obvious in the absence of any unobvious result.

Claims 5 to 9 and 11 to 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The references made of record and not relied upon show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fiona T.

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Powers whose telephone number is 571-272-0702. The examiner can normally be reached on Monday - Friday 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on 571-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Fiona T. Powers*  
Fiona T. Powers  
Primary Examiner  
Art Unit 1626

ftp  
March 14, 2006